**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR**

**FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928**

**WP(C).No. 5134 of 2007(J)**
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**PETITIONER:**
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**KANDATHIL MAHAMOOD HAJI, S/O.PATHUMMA,**
**KANDATHIL HOUSE, PAYYANNUR VILLAGE,**
**THALIPARAMBA TALUK.**

**BY ADV. SRI.V.C.JAMES**
**SRI.GEORGE MECHERIL**

**RESPONDENTS:**
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**1. THE TAHSILDAR, THALIPARAMBA.**

**2. THE PAYYANNUR MUNICIPALITY,**
**REP. BY ITS SECRETARY.**

**BY ADV. SRI.M.SASINDRAN --- R2**
**GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**WP(C) NO: 5134/2007 J**

**APPENDIX**

**PETITIONER'S EXHIBITS**

**EXT.P1. COPY OF THE COMPROMISE DECREE DT. 31/07/96 OF THE MUNSIFF COURT, TALIPARAMBA.**

**EXT.P2. COPY OF THE ASSESSMENT ORDER DT. 3/2003 ISSUED BY THE R1.**

**EXT.P3. COPY OF THE REVISED ASSESSMENT ORDER OF THE R1 DT. 25/3/2003.**

**EXT.P4. COPY OF THE ASSESSMENT ORDER OF THE R1 DT. 3/2003.**

**EXT.P5. COPY OF THE ORDER DT. 3/6/2006 BY DIST. COLLECTOR, KANNUR.**

**EXT.P6. COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE R2 DT. 27/10/2006.**

**EXT.P7. COPY OF THE ACKNOWLEDGEMENT DT. 27/10/2006 ISSUED BY THE R2.**

**EXT.P8. COPY OF THE STATEMENT DT. 29/09/2006 OF THE R1.**

**EXT.P9. COPY OF THE ORDER DT. 26/12/2006 BY THE R1.**

*True copy*

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K.BALAKRISHNAN NAIR, J.

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W.P.(C).No.5134 of 2007-J

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Dated this the 2nd day of March, 2007

**JUDGMENT**

The petitioner challenges Ext.P9 order passed by the Tahsildar under the Kerala Building Tax Act. The dispute is regarding the date of assessment of the building. He completed the construction of the building in 1995. But, the assessment was made only in 2006. Therefore, the rate of tax applicable at present should not have been made applicable to it. Pre-revised rate which prevailed in 1995 should have been taken into account for computing the total amount due.

2. The learned Government Pleader points out that the initial assessment was made in 2002. The said order was set aside by the District Collector and remanded. Now, fresh assessment is made as per Ext.P9.

3. I think the dispute regarding the date of completion of the building and the consequential rate of tax applicable is a matter which can be properly considered and decided by the appellate authority. Accordingly, the writ petition is closed giving liberty to the petitioner to move the appellate forum. The period this writ petition was pending before this court shall be excluded while computing the period of limitation in filing the appeal. Since the petitioner has

already paid the amount, while invoking the appellate remedy further deposit need not be insisted.

K.BALAKRISHNAN NAIR, JUDGE.

MS